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*Attorneys for Plaintiff**Cash Cloud Inc.***EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA**

CASH CLOUD INC., a Nevada corporation,

Plaintiff,

vs.

COLE KEPRO INTERNATIONAL, LLC, a
Delaware limited liability company,

Defendant.

Case No.: A-22-854226-B

Dept. No.: XXII

Hearing Date: September 13, 2022

Hearing Time: 8:30 a.m.

**ORDER GRANTING MOTION FOR DECLARATORY JUDGMENT AND FOR
STAY OF ARBITRATION PROCEEDINGS AND DENYING DEFENDANT'S
COUNTERMOTION TO DISMISS ACTION PURSUANT TO EDCR 2.20(f)**

This matter came before the Court on Plaintiff Cash Cloud Inc.'s ("Plaintiff" or "Cash Cloud") Motion for Declaratory Judgment and for Stay of Arbitration Proceedings (the "Motion") and Defendant Cole Kepro International, LLC's ("Defendant" or "Cole Kepro") Countermotion to Dismiss Action Pursuant to EDCR 2.20(f) (the "Countermotion"). James M. Jimmerson, Esq. of The Jimmerson Law Firm, P.C. and John Naylor, Esq. of Naylor & Braster appeared on behalf of Cash Cloud, with Christopher McAlary in attendance, and David Adler, Esq. of Jaffe Raitt Heuer & Weiss, P.C. and Dan Waite, Esq. of Lewis Roca Rothgerber Christie LLP appeared on behalf of

1 Cole Kepro. The Court reviewed the papers and pleadings on file herein, and good cause
2 appearing, the Court finds and orders as follows:

3 THE COURT HEREBY FINDS that NRCP 57 states in pertinent part:

4 The procedure for obtaining a declaratory judgment pursuant
5 to statute, shall be in accordance with these rules, ... The
6 existence of another adequate remedy does not preclude a
7 judgment for declaratory relief in cases where it is
8 appropriate. **The court may order a speedy hearing of an
action for a declaratory judgment and may advance it
on the calendar.**

9 *Id.* (emphasis supplied).

10 THE COURT FURTHER FINDS that NRS 38.221 states in relevant part:

11 2. On motion of a person alleging that an arbitral proceeding
12 has been initiated or threatened but that there is no
13 agreement to arbitrate, the court shall proceed summarily to
14 decide the issue.

15 ***

16 4. **If the court finds that there is no enforceable
agreement, it may not, pursuant to subsection 1 or 2.
order the parties to arbitrate.**

17 *Id.* (emphasis supplied).

18 THE COURT FURTHER FINDS that in 2021 Cash Cloud had purchased 4,080
19 4th Generation kiosks from Cole Kepro.

20 THE COURT FURTHER FINDS that disputes have arisen between Cash Cloud
21 and Cole Kepro over the purchase of the 4th Generation kiosks.

22 THE COURT FURTHER FINDS that on or about May 27, 2022, Cole Kepro
23 initiated an arbitration proceeding with the American Arbitration Association in Texas
24 concerning, *inter alia*, the purchase of 4,080 4th Generation Kiosks by Cash Cloud from
25 Cole Kepro.

26 THE COURT FURTHER FINDS that Cole Kepro maintained that the arbitration
27 of the dispute over the purchase of 4,080 4th Generation Kiosks by Cash Cloud from Cole
28 Kepro was mandated by the provisions of the two-page terms and conditions document,
a copy of which was attached to the Motion as Exhibit 20.

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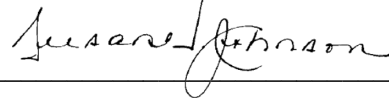
1 THE COURT FURTHER FINDS that there was no agreement to arbitrate the
2 disputes over Cash Cloud's purchase of the 4,080 4th Generation kiosks from Cole Kepro.

3 THEREFORE, THE COURT ORDERS, ADJUDGES, DECREES, AND
4 DECLARES that Cash Cloud did not agree to arbitrate disputes over the purchase of the
5 4,080 4th Generation kiosks.

6 THE COURT FURTHER ORDERS, ADJUDGES, AND DECREES that the
7 arbitration of the disputes over Cash Cloud's purchase of the 4th Generation kiosks from
8 Cole Kepro shall be stayed immediately.

9 THE COURT FURTHER ORDERS, ADJUDGES, AND DECREES that Cash
10 Cloud's Motion for Declaratory Judgment and for Stay of Arbitration Proceedings is
11 granted and Cole Kepro's Countermotion to Dismiss Action Pursuant to EDCR 2.20(f) is
12 denied.

Dated this 10th day of October, 2022



13
14 Respectfully Submitted By:

B89 0D4 61ED 303A
Susan Johnson
District Court Judge

15
16 THE JIMMERSON LAW FIRM, P.C.

17
18 By: /s/ James M. Jimmerson, Esq.
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24 *Attorneys for Plaintiff Cash Cloud Inc.*

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1 Not approved as to form and content by:

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4 By: /s/

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17 *Attorneys for Defendant Cole Kepro International, LLC*
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James M. Jimmerson, Esq.

From: James M. Jimmerson, Esq.
Sent: Friday, October 7, 2022 2:03 PM
To: 'David Adler'; Waite, Dan R.
Cc: Andrew Pastor; Deborah Gutierrez
Subject: RE: Cash Cloud Inc. v. Cole Kepro International, LLC

Respectfully, I believe that an order on declaratory judgment needs more and there was no restriction on the Court's denial of the counter motion. We will submit competing orders.

Sincerely,

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Cc: Andrew Pastor <aap@jimmersonlawfirm.com>; Deborah Gutierrez <dgutierrez@jaffelaw.com>
Subject: RE: Cash Cloud Inc. v. Cole Kepro International, LLC

Thanks, but the judge did not make any ruling other than that there was no agreement to arbitrate the 4th Generation Kiosk dispute. Here's the version of the order we propose.

David Adler
dadler@jaffelaw.com
248.727.1563
he/him/his

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Jaffe is joining Taft

The next chapter starts December 31, 2022.

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From: James M. Jimmerson, Esq. <jmj@jimmersonlawfirm.com>
Sent: Thursday, September 29, 2022 5:58 PM
To: David Adler <dadler@jaffelaw.com>; Waite, Dan R. <DWaite@lewisroca.com>
Cc: Andrew Pastor <aap@jimmersonlawfirm.com>
Subject: Cash Cloud Inc. v. Cole Kepro International, LLC

****EXTERNAL EMAIL - Be Cautious with Links and Attachments****

David and Dan,

Attached is a proposed order on the motion and countermotion decided by Judge Johnson. Please let me know if you have any requested changes to the same or if I may submit with your electronic signature. Thank you.

Sincerely,

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CSERV

DISTRICT COURT
CLARK COUNTY, NEVADA

Cash Cloud Inc, Plaintiff(s)	CASE NO: A-22-854226-B
vs.	DEPT. NO. Department 22
Cole Kepro International LLC, Defendant(s)	

AUTOMATED CERTIFICATE OF SERVICE

This automated certificate of service was generated by the Eighth Judicial District Court. The foregoing Order was served via the court's electronic eFile system to all recipients registered for e-Service on the above entitled case as listed below:

Service Date: 10/10/2022

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